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Point 4 de l'ordre du jour

Situations relatives aux droits de l'homme qui requièrent l'attention du Conseil

Note verbale datée du 4 mars 2020, adressée au Haut-Commissariat des Nations Unies aux droits de l'homme par la Mission permanente de l'Azerbaïdjan auprès de l'Office des Nations Unies à Genève

La Mission permanente de la République d'Azerbaïdjan auprès de l'Office des Nations Unies et des autres organisations internationales à Genève présente ses compliments au Haut-Commissariat des Nations Unies aux droits de l'homme et à l'honneur de lui faire tenir ci-joint la déclaration faite conjointement par le Ministère des affaires étrangères et le Bureau du Procureur général de la République d'Azerbaïdjan à l'occasion du vingt-huitième anniversaire du génocide de Khodjaly, commis par les forces armées arméniennes dans la ville de Khodjaly dans la nuit du 25 au 26 février 1992.

La Mission permanente de la République d'Azerbaïdjan auprès de l'Office des Nations Unies et des autres organisations internationales à Genève prie le Haut-Commissariat des Nations Unies aux droits de l'homme de bien vouloir faire distribuer la présente note verbale et son annexe* comme document de la quarante-troisième session du Conseil des droits de l'homme, au titre du point 4 de l'ordre du jour.

* L'annexe est reproduite telle qu'elle a été reçue, dans la langue de l'original seulement.



Annexe à la note verbale datée du 4 mars 2020, adressée au Haut-Commissariat des Nations Unies aux droits de l'homme par la Mission permanente de l'Azerbaïdjan auprès de l'Office des Nations Unies à Genève

Joint Statement by the Ministry of Foreign Affairs and Prosecutor General's Office of the Republic of Azerbaijan on the 28th anniversary of the Khojaly genocide

February 26, 2020 marks the 28th anniversary of the massacre committed by the Armenian armed forces in Khojaly during Armenia's aggression against Azerbaijan.

As a result of Armenia's on-going aggression against Azerbaijan, about one-fifth of the Azerbaijani territories, including Nagorno-Karabakh and seven surrounding regions, have been occupied and more than one million ethnic Azerbaijanis living in these areas, as well as in Armenia, have been subjected to ethnic cleansing.

During this aggression, numerous military offenses, crimes against humanity and genocide were committed against the civilian population of Azerbaijan and the Republic of Armenia as the aggressor bears the responsibility for them.

In the course of the war, the capture of Khojaly town was particularly tragic. Before the conflict, 7,000 people lived in this town of the Nagorno-Karabakh region of Azerbaijan. From October 1991, the town was entirely surrounded by the armed forces of Armenia. Over the night of the 25 to 26 February 1992, following massive artillery bombardment of Khojaly, the armed forces of Armenia, with the help of the infantry guards regiment No. 366 of the former USSR, implemented the seizure of Khojaly. Invaders destroyed Khojaly and with particular brutality implemented carnage over its peaceful population.

As a result of the Khojaly genocide 5379 inhabitants of the city were forcefully expelled, 613 people, including 63 children, 106 women and 70 elderly brutally murdered, 8 families were completely destroyed, 487 were injured, 1275 were captured and taken hostage (the fate of 150 of them, including 68 women and 26 children, remains unknown to date). By the occupation of Khojaly damage exceeding 170 million USD has been inflicted to the Government of Azerbaijan and individual nationals.

The overall assessment of the causes and consequences of the war unleashed by the Republic of Armenia against the Republic of Azerbaijan and all existing facts of the tragic events in Khojaly make it absolutely clear that the crimes committed in that town of Azerbaijan were not an isolated or sporadic act, but a part of Armenia's widespread and systematic policy and practice of atrocities. The intentional slaughter of the civilians in Khojaly was directed at their mass extermination only because they were Azerbaijanis.

The Khojaly massacre and other war crimes, crimes against humanity and genocide committed by Armenia in the course of the ongoing aggression against the Republic of Azerbaijan constitute a serious violation of international humanitarian and human rights law, in particular the 1949 Geneva Conventions, Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and the Convention for the Protection of Human Rights and Fundamental Freedoms.

The investigation conducted by the Military Prosecutor's Office of the Republic of Azerbaijan has fully proved involvement of a number of military servicemen and other persons in the perpetration of the Khojaly genocide. The investigation made decisions on their accusation according to the articles of the Criminal Code of Azerbaijan on genocide, torture, deportation of the population, violation of international humanitarian law during the armed conflict and other criminal offenses.

As a result of the investigation into the Khojaly genocide episode, around 7,500 investigative actions were conducted regarding more than 4,500 persons, including over 1,800 witnesses and 2699 victims, more than 800 different examinations and other investigations were carried out.

One year after the Khojaly genocide, in 1993, the UN Security Council adopted 4 (822, 853, 874, 884) resolutions condemning the occupation of Azerbaijani territories and affirming respect for the territorial integrity and sovereignty of Azerbaijan, the inviolability of international borders and the inadmissibility of occupation of territories. Thus, in response to the territorial claims and actions of Armenia, the Security Council confirmed that Nagorno-Karabakh was an integral part of Azerbaijan and demanded the immediate, complete and unconditional withdrawal of all occupying forces from the occupied territories of Azerbaijan. This position is reflected in the decisions and resolutions of numerous international organizations.

In its judgment of 22 April 2010, the European Court of Human Rights arrived at an important conclusion with respect to the crime committed in Khojaly, qualifying the behavior of those carrying out the incursion as “acts of particular gravity which may amount to war crimes or crimes against humanity”.

The national legislative bodies of 16 States, as well as the Organization of Islamic Cooperation adopted resolutions and declarations on condemning in strongest terms the massacre of civilian population in Khojaly and recognizing the tragedy of Khojaly as an act of genocide and crime against humanity.

The report “War crimes committed in the occupied territories of Azerbaijan and the responsibility of Armenia”, prepared at the request of the Government of Azerbaijan by the eminent international lawyer Malcolm Shaw was published as the UN General Assembly and the Security Council document on 7 February 2020. The report, which contains the basic facts, historical background, the general framework of international humanitarian law and an analysis of the responsibility of Armenia, examines the war crimes committed by Armenia in the occupied territories of Azerbaijan, including the Khojaly massacre, which is characterized as a crime against humanity and genocide.

In total disregard of the position of the international community, demands of the UN Security Council Resolutions on immediate, unconditional and full withdrawal of occupying forces from the seized lands of Azerbaijan, Armenia continues flagrant violation of international law. It continues to undertake efforts aimed at further consolidating the current status quo of the occupation, strengthening its military build-up in the seized territories, changing their demographic, cultural and physical character and preventing the hundreds of thousands of Azerbaijani forcibly displaced persons from returning to their homes and properties in those areas.

Alongside the Republic of Armenia’s responsibility as a State for internationally wrongful acts, under the customary and treaty norms of international criminal law, certain acts perpetrated in the context of an armed conflict, including those in the town of Khojaly, are viewed as international criminal offences and responsibility for them is borne on an individual basis by those who participated in the said acts, their accomplices and accessories.

Official Yerevan not only denies its responsibility for the occupation of Azerbaijani territories and military presence in these territories, but even claims that the Khojaly massacre was allegedly committed by Azerbaijanis against their citizens, in this regard referring to an interview with the former President of the Republic of Azerbaijan, Ayaz Mutalibov, to Russian media. A.Mutalibov has repeatedly stated that these references to him are lies and slander, the Khojaly execution was committed by the Armenians.

It is well known that some representatives of the previous leadership of Armenia, together with many other high-ranking political and military officials of that State and leaders of the separatist regime set up by Armenia in the occupied territory of Azerbaijan, personally participated in seizing Azerbaijani lands and in the reprisals against Azerbaijani civilians and militaries, including in Khojaly.

In his cynical admission of culpability, Armenia's then-Defense Minister and ex-President, Serzh Sargsyan, was quoted by the British journalist Thomas de Waal, as saying, "before Khojali, the Azerbaijanis thought that ... the Armenians were people who could not raise their hand against the civilian population. We were able to break that [stereotype]" (Thomas de Waal, *Black Garden: Armenia and Azerbaijan through Peace and War* (New York and London, New York University Press, 2003), p. 172).

It is incontrovertible today that no official or political status cloaks the person concerned with immunity for the most serious international crimes, such as war crimes, crimes against humanity, genocide and ethnic cleansing.

Alongside the on-going prosecution of persons charged with committing various crimes against their own people in Armenia, the trial over the crimes committed by them against the Azerbaijani people is also crucial for the establishment of international justice and can contribute to the settlement of the Armenia-Azerbaijan conflict by peaceful means.

The Republic of Azerbaijan is confident that the consistent measures being taken at the national level, as well as the existing international legal framework, will serve to bring to justice those responsible for the grave offenses committed against the civilian population of Azerbaijan during the conflict.
